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UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF PENNSYLVANIA

JUKEN WASHINGTON GORDON, :
Plaintiff : Civil No. 1:CV-01-0331
v. :
N. GONZALEZ, et al. :
Defendants : (Judge Rambo)

STATEMENT OF MATERIAL FACTS

1. On Saturday, September 9, 2000, at approximately 11:20 am, several staff members of the United States Penitentiary at Lewisburg, Pennsylvania, ("USP Lewisburg") were monitoring inmates departing the main dining hall upon completion of the weekend brunch meal. Exh. 1, ¶1.

2. The "last call" announcement had been made approximately 15 minutes before, and the serving lines were closed. No other inmates were permitted to enter the dining hall. Exh. 1, ¶¶1,2; Exh. 2, ¶2.

3. Gordon approached staff and demanded to enter the dining hall to eat. He was informed that the dining hall was closed. Gordon became agitated and left the area. Exh. 1, ¶2; Exh. 2, ¶2.

4. Gordon subsequently returned and began to argue with defendant Gonzalez. Exh. 1, ¶2; Exh. 2, ¶2.

5. Lt. Gonzalez ordered Gordon to return to his housing unit. Gordon continued to argue, demanding that he be fed his lunch. Exh. 1, ¶2; Exh. 2, ¶2.

6. Gonzalez directed Gordon to come with him to the Lieutenant's Office and asked defendant Puckey to accompany him. Exh. 1, ¶2; Exh. 2, ¶2.

7. Once inside the Lieutenant's Office, Gordon became loud and agitated. Gordon was ordered to place his hands on the wall of the office and submit to hand restraints. Exh. 1, ¶3; Exh. 2, ¶3.

8. Gordon complied with the order to put his hands on the wall. Exh. 1, ¶3.

9. As Officer Puckey put a hand restraint on Gordon's left hand, Gordon began to resist and shouted "Fuck you...fuck you, you are not locking me up." Exh. 1, ¶3.

10. Gordon attempted to pull away from Officer Puckey, clenched his fist, and lunged towards Lt. Gonzalez, in an apparent attempt to assault him. Exh. 1, ¶3; Exh. 2, ¶3.

11. Officer Puckey still had control of Gordon's left hand and used a leg sweep maneuver to take Gordon to the floor and regain control of him. Exh. 1, ¶3; Exh. 2, ¶3.

12. Once Gordon was on the floor, he continued to resist, so the defendants called for additional assistance. Exh. 1, ¶3; Exh. 2, ¶4.

13. Defendants Shuck, Candelora and Shuman responded to Officer Puckey's call for assistance. When the officers arrived, they found staff struggling to restrain Gordon, who was on the floor. Exh. 1, ¶4; Exh. 2, ¶4; Exhs. 4,5,6.

14. Gordon was kicking and attempting to resist staff efforts to apply restraints. The officers assisted in attempting to hold Gordon still and applying restraints. Exh. 1, ¶4; Exh. 2, ¶4; Exhs. 4,5,6.

15. Once Gordon was restrained, due to his efforts to assault staff and continued combativeness, he was carried to the Special Housing Unit, where he was placed in ambulatory restraints. Exh. 1, ¶4; Exh. 2, ¶4. Exhs. 4,5,6.

16. At 11:53 a.m. that same day, Gordon was examined by defendant Peoria and found to have sustained no visible injuries. Exh. 3, ¶2, p.5. Physician Assistant ("P.A.") Peoria advised Gordon of the procedure for obtaining a copy of the Inmate Injury Assessment Form and advised him to follow up through sick call procedures as needed. Exh. 3, ¶2.

17. Lt. Gonzalez was also examined by Health Services staff and treated for knee strain. Exh. 1, ¶4.

18. As a result of this incident, Gordon received a disciplinary incident report for Threatening, Attempted Assault, and Refusing an Order. Exh. 2, ¶4, p.3.

19. A disciplinary hearing was held on September 12, 2000. The Discipline Hearing Officer concluded that Gordon had committed the prohibited act of Attempted Assault and sanctioned him to 27 days loss of Good Conduct Time, 30 days disciplinary segregation, a disciplinary transfer, and 180 days loss of commissary and telephone privileges. Exh. 2, ¶5, p.4.

20. In December, 2000, three months after the September, 2000, use of force incident, Gordon was seen at the Allenwood United States Penitentiary in White Deer, Pennsylvania, by an orthopedic specialist for complaints of lower back pain. Exh. 3, ¶4, pp.3,4.

21. At that time, Gordon stated that before he was incarcerated, he was involved in an automobile accident and was subsequently treated for back pain. Exh. 3, ¶4, pp.3,4.

22. Gordon reported that "his pain never really went away since that time and kind of lingered, then it got worse." Exh. 3, ¶4, pp.3,4.

23. Gordon also reported that he "can't relate it to any episode that made it worse." Exh. 3, ¶4, pp.3,4.

24. While Gordon did mention the September, 2000, incident at USP Lewisburg, the examining physician noted that as a

result of the fall, Gordon had "really no radicular symptoms, or in my estimation, no significant change." Exh. 3, ¶4, p.4.

Respectfully submitted,

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Dated: June 15, 2001

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:

CERTIFICATE OF SERVICE

The undersigned hereby certifies that she is an employee in the Office of the United States Attorney for the Middle District of Pennsylvania and is a person of such age and discretion to be competent to serve papers.

That this 15th day of June, 2001, she served a copy of the attached

STATEMENT OF MATERIAL FACTS

by placing said copy in a postpaid envelope addressed to the person hereinafter named, at the place and address stated below, which is the last known address, and by depositing said envelope and contents in the United States Mail at Harrisburg, Pennsylvania.

ADDRESSEE:

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